

### **REMARKS**

By the present amendment, Applicants have incorporated most of the limitations of dependent claims 2, 3 and 4 into claim 1, amended claims 2, and 4 in view of the inclusion of limitations of these claims into claim 1, amended claim 14 to now be dependent on claim 1, and similarly amended claims 5-9 to so that they likewise are dependent upon claim 1. Claims 3 and 23 have been cancelled.

Applicants respectfully submit that the amendments add no new matter and are fully supported by the application as originally filed.

It is to be noted that the previous listing of the claims was presented by Preliminary Amendment filed September 15, 2006, the same date as the filing of the instant application.

### **ELECTION OF SPECIES**

Previously the examiner required election of species between claims 1-22 directed to a solid oxide fuel cell, and claim 23 directed to an oxygen generator. On December 18, provisional election was made by Applicants' counsel to species of claims 1-22, with claim 23 withdrawn from further consideration by the examiner as being drawn to a non elected invention. By the present amendment, claim 23 has now been cancelled.

### **THE REJECTION**

The claims have been rejected under 35 W.S.C. 102 (b) as being anticipated by Misawa et al. (US Patent 5,134,754). In making the rejection, the examiner indicated that claims 4- 8 and 15-22 would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Applicants appreciate the indication of allowable subject matter. The claims have now been amended as suggested by the examiner, where essentially all of the limitations of claims 2-4 have been incorporated into a newly amended claim 1.

As now presented, amended claim 1 distinguishes from the cited prior art, in that among other things the prior art of record does not teach or suggest the unit structure claimed herein, said structure in electrical contact with a conductive housing member, the unit including a first

and second electrochemical cell, with a current collector as claimed, wherein the cells are positioned adjacent one another such that the electrodes of one type are facing inward toward one another to define a space for passage of gas during operation of the device, and wherein the ends of each of the electrochemical cells are sealed by first and second insulating and electrically conductive seals, respectively. It is submitted, that claims 2, 4, and 5-22 now ultimately dependent on an allowable claim 1 are likewise allowable.

It is noted that two different embodiments of the invention are described at figures 3 and 8. Thus, the arrangement of the conductive and insulating seals of the one embodiment depicted in Figure 3 relative to the conductive housing members is different from that depicted in Figure 8. For example, insulating seals 164 and 166 of Figure 8B are not connected to a housing that is electrically conductive, as is the case with insulating seals 64 and 66 of Figure 3A. Thus, it was felt to include all of the limitations of claim 4 into claim 1, wherein claim 4 was directed to the embodiment of Figure 3 (with both type of seals connected to an electrically conductive housing member) was unduly limiting, and not warranted in order to overcome Misawa, et al.

### CONCLUSIONS

In view of the foregoing amendment and remarks, Applicants request entry of the amendment, and allowance of the claims as presently presented.

Please charge any additional fees, including fees for additional extensions of time, or credit overpayment to Deposit Account No. 120690.

Respectfully submitted,  
Regents of the University of California  
Customer No. 08076

Date: March 4, 2010

By: /Lawrence Edelman/

Lawrence Edelman  
Registration No. 25,226  
Attorney of Record  
Lawrence Berkeley National Laboratory  
One Cyclotron Road MS: 56A020  
Berkeley, CA 94720  
(510) 486-4672  
LEdelman@lbl.gov